



RECEIVED

553335

OCT 19 2001

James M. Levine  
Executive Vice President  
Generation

TEL (602)250-2095  
FAX (602)250-3002

Mail Station 9046  
P.O. Box 53999  
Phoenix, AZ 85072-3999

October 18, 2001

Ms. Carol Hanlon  
S&ER Products Manager  
U. S. Department of Energy  
Yucca Mountain Site Characterization Office  
P. O. Box 30307 (M/S #025)  
North Las Vegas, Nevada 89036-0707

**PINNACLE WEST CAPITAL CORPORATION (PNW) COMMENTS ON  
POSSIBLE SITE RECOMMENDATION FOR YUCCA MOUNTAIN**

Ref: 1) 66 Federal Register 43,850 – August 21, 2001  
2) Letter from Lake H. Barrett to William Postdated August 27, 2001  
Requesting Comments on the Possible Site Recommendation

Dear Ms. Hanlon:

Pinnacle West Capital Corporation (PNW) is pleased to submit comments in response to the Department of Energy's (DOE) Possible Site Recommendation for Yucca Mountain. PNW is the parent company of Arizona Public Service Company, which is an owner, and the licensed operator of the Palo Verde Nuclear Generating Station (Palo Verde). Palo Verde is the nation's largest single electric power producer, with three identical 1,270 megawatt reactors, serving more than four million customers in four Southwestern states.

We encourage DOE to continue its progress towards licensing the Yucca Mountain High Level Waste disposal facility by moving forward on a possible site recommendation for Yucca Mountain. Furthermore, we encourage the federal government to continue progress toward meeting its legal obligation of accepting spent nuclear fuel and high level radioactive waste at a central disposal or other facility. Through their utility bills, electricity users across the country have paid billions of dollars to date for this purpose. By DOE's own estimates, action by the federal government has already slipped at least 12 years past the 1998 legally mandated date for spent nuclear fuel acceptance contained in the Nuclear Waste Policy Act of 1982, as amended.

Specifically, DOE asked that we respond to six suggested topics listed in Reference 2. The Nuclear Energy Institute (NEI) developed and has submitted extensive comments with regard to those topics. PNW fully endorses the comments submitted by NEI as they very clearly point out that DOE has a sound scientific basis for recommending Yucca Mountain as the site for a permanent repository and moving forward with the licensing phase at Yucca Mountain.

We also provide additional comment concerning those six topics as follows.

1. **Please provide your views concerning whether the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department provide an adequate basis for finding that the Yucca Mountain site is suitable for development of a repository. If you believe that certain aspects of the PSSE are inadequate, please detail the basis for this belief and indicate how the documentation might be made adequate with respect to these aspects.**

The amount of data collected and level of modeling and understanding of the proposed Yucca Mountain repository system as documented in the PSSE and other DOE documents has now evolved sufficiently to support a suitability determination. Forty years of global science and 20 years of specific study at Yucca Mountain support continued progress in this important environmental program. The Secretary of Energy and the President should have high confidence that taking the next step in the repository development process is the scientifically correct action.

In addition to DOE studies, the nuclear industry has conducted its own independent scientific repository evaluations through the Electric Power Research Institute (EPRI). EPRI's scientific results confirm those published by DOE in the PSSE and its predecessor documents. In fact, EPRI results found DOE's analyses to be very conservative in some areas that included both natural and engineered systems.

2. **If the Secretary determines that the scientific analysis indicates that the Yucca Mountain site is likely to meet the applicable radiation protection standards established by the Environmental Protection Agency and Nuclear Regulatory Commission, do you believe that the Secretary should proceed to recommend the site to the President at this time? If not, please explain.**

Yes, the Secretary should proceed to recommend the site to President Bush at this time. A site recommendation is good energy and environmental policy. It is the responsible thing to do.

We believe the fact that Yucca Mountain will meet conservative applicable radiation protection standards and this provides adequate assurance that the facility will protect the public health and safety. In fact, one could easily argue the standards are too stringent given the health risks associated with natural background radiation as compared to the health risks from potential radiation exposure at Yucca Mountain. As an example, natural radiation exposure from materials used in construction of the U.S. Capital building would not meet the radiation exposure standards imposed at Yucca Mountain.

2

3. **Are there any reasons that you believe should prevent the President from concluding that the Yucca Mountain site is qualified for the preparation and submission of a construction license application to the Nuclear Regulatory Commission?**

No, the scientific evidence clearly shows that the site is qualified for the preparation and submission of a construction license application to the Nuclear Regulatory Commission.

A key point to be made is that approval by President Bush does not constitute approval of site construction or operation. It merely means approval is granted to move forward with the process of submitting an application to NRC for a construction permit. A rigorous NRC licensing process will then independently evaluate the design and operation of a repository at the Yucca Mountain site in three stages – construction, operation, and facility closure.

4. **If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what mechanism should be utilized to meet the Department's legal obligation to begin accepting spent nuclear fuel and high level radioactive waste?**

We believe that the Secretary should proceed with a recommendation to develop a repository at Yucca Mountain. Twenty years of sound science supports a Yucca Mountain site recommendation.

The Secretary must meet the legal obligation to begin accepting spent nuclear fuel and high level radioactive waste regardless of what decision is made concerning Yucca Mountain.

The federal government has a long-standing legal obligation for the final disposition of spent nuclear fuel as codified in the Nuclear Waste Policy Act of 1982, as amended. The courts have consistently held that DOE had a legal obligation to begin accepting spent nuclear fuel from reactor sites starting January 31, 1998 and that DOE is in breach of this obligation. This obligation is independent of DOE's repository program. Absence of a repository does not relieve the government of its lawful responsibilities.

DOE's scientific investigation of Yucca Mountain shows that the site is safe for disposal of spent nuclear fuel and high level radioactive waste. Clearly, there now exists no scientific reason for the federal government to further delay the development of a federal repository.

3

5. **If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what measures should the Nation consider for assuring safe disposal of spent nuclear fuel and high level radioactive waste?**

We believe that the Secretary should proceed with a recommendation to develop a repository at Yucca Mountain. Furthermore, we agree with the National Academy of Sciences in its June 16, 2001, report that Geologic Disposal is the only "scientifically and technically credible solution" for the permanent disposal of spent nuclear fuel and high level radioactive waste. International scientific consensus supports this concept.

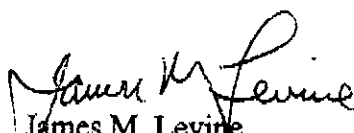
6. **Please provide any other comments concerning any relevant aspect of the Yucca Mountain site for use as a repository, or that are otherwise relevant to the consideration of a possible recommendation by the Secretary.**

The world's inventory of spent nuclear fuel and high level radioactive waste is growing because of the continued use of nuclear energy, the dismantling of nuclear weapons, and an emphasis on cleaning up sites where nuclear weapons were developed or built. All these causes, we submit, provide many societal benefits. We also believe the single most important question remaining for the nuclear industry is a long-term solution for the permanent disposal of spent nuclear fuel and high level radioactive waste to protect the public and the environment from radiation. Simply stated, centralized disposal at Yucca Mountain is more protective of the public health and safety than leaving spent nuclear fuel and high level radioactive waste in 40 states across the country.

A Yucca Mountain site recommendation is an integral part of an environmentally responsible national energy policy. At the present time, 103 operating nuclear power plants supply approximately 20 percent of our nation's electricity without emitting any greenhouse gases. Emerging national energy policies recognize the benefits of nuclear energy utilization and are recommending increased future development.

I thank you for the opportunity to comment on DOE's possible site recommendation for Yucca Mountain. Please contact me if there are any questions concerning these comments.

Sincerely,

  
James M. Levine  
Executive Vice President, Generation

4